



# 2015-026

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable George C. Simpson  
Circuit Judge  
40th Judicial Circuit  
Post Office Box 884  
Ashland, Alabama 36251

Demand Reduction Assessment Act – Drugs –  
Penalties – Rehabilitation – Court Referral  
Programs – Clay County

The court referral program constitutes a “drug rehabilitation program” under section 13A-12-284 of the Code of Alabama such as would justify reducing the Demand Reduction Assessment act penalty by the amount paid by the defendant to the court referral program for monitoring and drug screens.

Dear Judge Simpson:

This opinion of the Attorney General is issued in response to your request.

## QUESTION

Does the court referral program constitute a section 13A-12-284 “drug rehabilitation program” such as would justify reducing the demand reduction assessment act penalty by the amount paid by the defendant to the court referral program for monitoring and drug screens?

## FACTS AND ANALYSIS

Section 13A-12-284 of the “Demand Reduction Assessment Act,” which is found in section 13A-12-280, *et seq.*, of the Code of Alabama, provides that a defendant may have his or her “Demand Reduction Assessment” suspended or reduced upon the successful completion of a “drug rehabilitation program.” This section states the following:

(a) The court may suspend the collection of a penalty imposed pursuant to this division if the defendant agrees to enter a drug rehabilitation program approved by the court and if the defendant agrees to pay for all or some portion of the costs associated with the rehabilitation program. The collection of a penalty imposed pursuant to this division shall be suspended during the defendant's participation in the approved rehabilitation program.

(b) Upon successful completion of the rehabilitation program, the defendant may apply to the court to reduce the penalty imposed pursuant to this division by any amount actually paid by the defendant for his participation in said program. The court shall not reduce the penalty pursuant to this section unless the defendant establishes to the satisfaction of the court that he has successfully completed the rehabilitation program.

(c) If the defendant's participation is for any reason terminated before his successful completion of the rehabilitation program, collection of the entire penalty imposed pursuant to this division shall be enforced.

ALA. CODE § 13A-12-284 (2006). No provision, however, of the “Demand Reduction Assessment Act” defines or otherwise provides what a “drug rehabilitation program” is for the purpose of suspending or reducing the penalty.

The “Mandatory Treatment Act of 1990” (section 12-23-1, *et seq.*, of the Code) expressly provides in section 12-23-2 the Legislature’s intention in creating this law as follows:

To establish a specialized court referral officer program to promote the evaluation, education and rehabilitation of persons whose use or dependency on alcohol or drugs directly or indirectly contributed to the commission of an offense for which they were convicted in state or municipal courts *and to establish mandatory alcohol and drug abuse treatment programs to provide treatment and rehabilitation for these identified offenders.*

ALA. CODE § 12-23-2 (2012) (emphasis added).

Subsection (3) of section 12-23-3 broadly defines “drug abuse” as follows:

(3) DRUG ABUSE. Use of a controlled substance or drug with abuse or addictive potential to the extent that the user has lost the ability of self control, or to the extent that the health, safety, or welfare of the user, or that of others, is substantially impaired or endangered, or the social or economic function of the user is disrupted.

ALA. CODE § 12-23-3(3) (2012).

Moreover, subsection (4) of section 12-23-3 broadly defines the purpose of the “court referral officer program” as follows:

(4) COURT REFERRAL OFFICER PROGRAM. A program established to evaluate defendants' use of alcohol and/or drugs and to *provide assistance to courts in promoting the education and rehabilitation of defendants including juveniles and those granted youthful offender status or convicted of alcohol and/or drug-related offenses.*

ALA. CODE § 12-23-3(4) (2012) (emphasis added).

Clearly, the legislative intent of the “Mandatory Treatment Act of 1990” is to rehabilitate defendants in the criminal justice system that have alcohol and drug dependency issues, and the court referral officers (“CROs”) are required to place defendants they evaluate in either alcohol and drug education courses or to refer them to alcohol and drug treatment providers.

Section 13A-12-281 provides that any defendant convicted of “Sections 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-211, 13A-12-212, 13A-12-213, 13A-12-215, or 13A-12-231” shall be required to pay the “Demand Reduction Assessment.” ALA. CODE § 13A-12-281 (Supp. 2014). Therefore, where a defendant is convicted of one of the drug crimes enumerated in section 13A-12-281 and is referred by a CRO to a drug education or treatment program, such program qualifies as a “drug rehabilitation program” because the intent of the “Mandatory Treatment Act of 1990” is to rehabilitate defendants dependent on alcohol and drugs

### CONCLUSION

The court referral program constitutes a “drug rehabilitation program” under section 13A-12-284 such as would justify reducing the Demand Reduction Assessment act penalty by the amount paid by the defendant to the court referral program for monitoring and drug screens.

Honorable George C. Simpson  
Page 4

I hope this opinion answers your question. If this Office can be of further assistance, please contact Eric Locke, Legal Division, Administrative Office of Courts.

Sincerely,

LUTHER STRANGE  
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH  
Chief, Opinions Division

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